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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/074,743

02/12/2002

Scott Brenner

007412.00091

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04/29/2010

BANNER & WITCOFF, LTD

ATTORNEYS FOR CLIENT NUMBER 007412

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WASHINGTON, DC 20005-4051

EXAMINER

SHANG, ANNAN Q

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

04/29/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/074,743	<b>Applicant(s)</b> BRENNER ET AL.	
	<b>Examiner</b> ANNAN Q. SHANG	<b>Art Unit</b> 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 73-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 73-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                             |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/08; 06/28/10</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/16/10 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 73-92 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bhagavath et al (6,829,781)**

The applied reference has a common AT&T with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a

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showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As to claim 73, **Bhagavath** discloses network-based service to provide on-demand video summaries of TV programs and further discloses a method comprising

And an apparatus comprising: a storage medium (figs.7+); and a controller operatively coupled to the storage medium, the controller being configured to cause the apparatus to perform operations:

Receiving a request to tune to a program being transmitted by a program provider, wherein the request is received after a start time of program transmission (figs.9-17, col.3, line 47-col.4, line 1+, col.6, line 60-col.7, line 1+ and col.10, line 15-col.11, line 1+);

Determining that a user terminal has remained tuned to the program for a predetermined threshold amount of time (col.4, lines 40-col.5, line 1+, col.6, line 60-col.7, line 1+, col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+);

Generating and communicating a request to the program provider to retrieve a copy of a portion of the program in response to the predetermined threshold amount of time being exceeded( col.4, lines 40-col.5, line 1+, col.6, line 60-col.7, line 1+ and col.10, line 15-col.11, line 1+); and

Receiving the copy of the portion of the program, wherein the portion comprises the program transmitted between the start time and a receipt time of the request to tune to the program (col.4, lines 40-col.5, line 1+, col.6, line 60-col.7, line 1+ and col.10, line

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15-col.11, line 1+).

As to claim 74, Bhagavath further discloses where the user terminal generates a prompt requesting approval prior to generating the request (col.8, line 28-col.9, line 1+).

As to claim 75, Bhagavath further discloses where the user terminal automatically generates and communicates the request (col.6, line 60-col.7, line 1+, col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+);.

As to claim 76, Bhagavath further discloses where the copy does not include the portion of the program broadcasted after the receipt time (col.6, line 60-col.7, line 1+, col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+);.

As to claim 77, Bhagavath further discloses receiving a channel selection during transmission of the program; receiving a request for a synopsis of the program during transmission of the program; upon receipt of the request for the synopsis, identifying a portion of the program that has been transmitted as of an identified clock time; and causing presentation of the synopsis of the program that summarizes the portion of the program that has been transmitted from a beginning of program transmission until the identified clock time (col.6, line 60-col.7, line 1+, col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+);.

As to claim 78, Bhagavath further discloses where the synopsis is presented in a fast forward mode (col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+).

As to claim 79, Bhagavath further discloses maintaining the channel selection for a predefined period of time before causing presentation of the synopsis (col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+).

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As to claim 80, the claimed “An apparatus comprising...” is composed of the same structural elements that were discussed with respect to the rejection of claim 73.

Claim 81 is met as previously discussed with respect to claim 74.

Claim 82 is met as previously discussed with respect to claim 75.

Claim 83 is met as previously discussed with respect to claim 76.

Claim 84 is met as previously discussed with respect to claim 77.

Claim 85 is met as previously discussed with respect to claim 78.

Claim 86 is met as previously discussed with respect to claim 79.

As to claim 87, the claimed “A method comprising...” is composed of the same structural elements that were discussed with respect to the rejection of claim 73.

As to claim 88, Bhagavath further disclose where the copy of the portion of the program comprises a complete copy of the program (col.6, line 60-col.7, line 1+, col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+).

As to claim 89, Bhagavath further disclose where the copy of the portion of the program comprises less than a complete copy of the program (col.6, line 60-col.7, line 1+, col.8, line 28-col.9, line 1+ and col.10, line 15-col.11, line 1+).

As to claim 90, the claimed “An system comprising...” is composed of the same structural elements that were discussed with respect to the rejection of claim 73.

Claim 91 is met as previously discussed with respect to claim 88.

Claim 92 is met as previously discussed with respect to claim 89.

***Response to Arguments***

4. Applicant's arguments with respect to claims 73-92 have been considered but are moot in view of the new ground(s) of rejection. The amendment to the claims necessitated the new ground(s) of rejection discussed above. This office action is non-final.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rosin et al (2008/0072260) disclose content navigator graphical user interface system and method (**note a user can move forward and backward to past program**).

Ullrich et al (5,583,937) disclose method for providing video programming nearly on demand (**note a user previews a program for a limited time**).

Kosco (3,886,302) discloses closed circuit TV modem sharing system (**note a user previews a program for a limited time**).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANNAN Q. SHANG** whose telephone number is **(571)272-7355**. The examiner can normally be reached on **7:00am-4:00pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone

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number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative or access** to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/  
Primary Examiner, Art Unit 2424

**Annan Q. Shang**